



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

CAO
F. #2012R00519

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 1, 2014

By ECF and Via Email

The Honorable Denis R. Hurley
United States District Court
Eastern District of New York
930 Federal Plaza
Central Islip, New York 11722

Re: United States v. Alexander Swanson,
13CR221 (DRH)

Dear Judge Hurley:

The parties write to update the Court on the restitution issue. While the sentencing hearing can go forward as scheduled on Friday, October 3, 2014, the parties jointly request that the Court delay the issuance of a judgment until 90 days after the sentencing hearing. Prior to the expiration of that period, the parties hope to resolve the issue, which involves a purported transfer of \$400,000 back to Jane Doe #2, and jointly advise the Court of the shape and dimensions of the restitution order. Thereafter, the Court can issue a judgment of conviction incorporating the restitution order.

The procedures for issuance and enforcement of judgments of restitution are set forth in 18 U.S.C. § 3664 and by incorporation 18 U.S.C. §§ 3571-3574 and 3611-3615. See 18 U.S.C. § 3664(m). By statute, this 90-day period of delay is permissible. See 18 U.S.C. § 3664(d)(5). Moreover, the Second Circuit has expressly stated that sentencing courts can delay the restitution order far beyond that 90-day limit. See United States v. Zakhary, 357 F.3d 186, 191 (2d Cir. 2004) (explaining that the purpose of the 90-day statutory period “is not to protect defendants from drawn-out sentencing proceedings or to establish finality; rather, it is to protect crime victims from the willful dissipation of

defendants' assets"). For these reasons, the parties submit that the proposed delay is legally permissible and appropriate in this case.

Please do not hesitate to contact me if you have any concerns or questions.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

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CC: Counsel (Via ECF and Email)